

TOBACCO PRODUCTS TAX ACT (EXCERPT)
Act 327 of 1993

205.423 Purchase, possession, acquisition for resale, or sale of tobacco product; license required; fees; disc or marker attached to vending machine; proof to be furnished with application; surety bond; financial statement.

Sec. 3. (1) Beginning May 1, 1994, a person shall not purchase, possess, acquire for resale, or sell a tobacco product as a manufacturer, wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transportation company, or transporter in this state unless licensed to do so. A license granted under this act is not assignable.

(2) Upon proper application and the payment of the applicable fee, and subject to subsection (6), the department shall issue a license to each manufacturer, wholesaler, secondary wholesaler, vending machine operator, unclassified acquirer, transportation company, or transporter. The application shall be on a form prescribed by the department and signed under penalty of perjury. Except for transportation companies, each place of business shall be separately licensed. If a person acts in more than 1 capacity at any 1 place of business, a license shall be procured for each capacity. Each machine for vending tobacco products shall be considered a place of retail business. Each license or a duplicate copy shall be prominently displayed on the premises covered by the license. In the case of vending machines, a disc or marker furnished by the department showing it to be licensed shall be attached to the front of the machine in a place clearly visible to the public.

(3) The fees for licenses shall be the following:

- (a) A wholesaler's license, \$100.00.
- (b) A secondary wholesaler's license, \$25.00.
- (c) A license for vending machine operators, \$25.00.
- (d) An unclassified acquirer's license, as follows:
 - (i) State of Michigan, no fee.
 - (ii) Retail importer of tobacco products other than cigarettes, \$10.00.
 - (iii) Retail importer of cigarettes, \$100.00.
 - (iv) Vending machine operator buying direct from a manufacturer, \$100.00.
 - (v) Manufacturer, \$100.00.
 - (vi) Any other importer, \$100.00.
- (e) A transportation company's license, \$5.00.
- (f) A transporter's license, \$50.00.

(4) If a manufacturer, wholesaler, secondary wholesaler, or vending machine operator maintains more than 1 place of business, the fee for each additional place of business shall be 1/4 of the fee otherwise prescribed in subsection (3). A fee, or a part of a fee, shall not be refunded by reason of relinquishment, suspension, or revocation of the license, or, except under order of a court of competent jurisdiction, for any other reason or cause.

(5) A person shall not possess a machine for vending tobacco products for a period in excess of 72 hours unless there is a disc or marker attached as provided by this section. This requirement does not apply to a machine not containing a tobacco product. If a person possesses a vending machine containing a tobacco product that is not properly licensed or identified as required by this section, the department may seal or seize the machine, together with the tobacco products contained in the machine. The provisions of section 9 govern the seizure and subsequent disposition of a machine or tobacco product seized.

(6) Applications from persons applying for an initial license under this act shall be accompanied by satisfactory proof, as determined by the department, of all the following:

- (a) The applicant's financial responsibility, including but not limited to, satisfactory proof of a minimum net worth of \$25,000.00.
- (b) That the applicant owns, or has an executed lease for, a secure nonresidential facility for the purpose of receiving and distributing cigarettes and conducting its business if the applicant owns or has an executed lease for such a facility. If the applicant carries on another business in conjunction with the secure nonresidential facility, the other business shall also be identified.

(c) United States citizenship or eligibility to obtain employment within the United States if not a citizen. If the applicant is not an individual, the controlling shareholders, partners, directors, and principal officers shall be United States citizens or eligible to obtain employment within the United States if not a citizen.

(7) The department may require an applicant who is purchasing the business of a licensee to file a copy of the contract of sale and any related documents with its application. The department may require a licensee under this section to furnish a surety bond with a surety company authorized to do business in this state in an

amount the department may fix, conditioned upon the payment of the tax provided by this act. The department may also require a licensee under this section to file a financial statement with the department showing all assets and liabilities and any other information the department may prescribe, to be filed within 30 days after the date requested. If there is a change of more than 50% of ownership or control or a change in the general partnership of a licensee, the department may require that licensee to file a new application for a license or an updated financial statement.

History: 1993, Act 327, Eff. Mar. 15, 1994;—Am. 1997, Act 187, Imd. Eff. Dec. 30, 1997.